

**H.R. 915, THE “FAA REAUTHORIZATION ACT OF 2009”**  
**MANAGER’S AMENDMENT SUMMARY**

*March 4, 2009*

**Funding of FAA Programs**

Revises sections 101, 102, and 104 of H.R. 915 to better align the Federal Aviation Administration’s (“FAA”) Airport Improvement Program (“AIP”) and Facilities & Equipment (“F&E”) funding provisions with the account structure outlined in the FAA’s National Aviation Research Plan. The manager’s amendment moves the Airport Cooperative Research Program and Airports Technology Research funding from the Research, Engineering and Development (“RE&D”) account to the AIP. Similarly, the manager’s amendment shifts funding for the Center for Advanced Aviation System Development from the RE&D account to the F&E account. The manager’s amendment also reduces total funding for RE&D by the same amount as the programs shifted to AIP and F&E.

**Authorized Expenditures**

Revises section 106(k) to improve safety for medical helicopters by reauthorizing funding for the development and maintenance of approach procedures for heliports that support all-weather, emergency services. This provision was originally included in Title 49 by AIR 21 (P.L. 106-181).

Revises section 106(k) to reauthorize funding for the Alaska aviation safety project with respect to three-dimensional terrain mapping of Alaska’s main aviation corridors for pilot training. This program was originally included in Title 49 by Vision 100 (P.L. 108-176).

**Funding for Aviation Programs**

Revises section 105 to change the amount initially made available from the Airport and Airway Trust Fund (“Trust Fund”) to support FAA’s budget from 95 percent of the estimated Trust Fund revenues, to 90 percent. This change would provide greater room for error in revenue estimates until the actual level of revenues received for that year is known, and an adjustment is made to reconcile actual amounts deposited to the Trust Fund with actual amounts appropriated from it. Given recent revenue estimates, a 10 percent margin of error is necessary. A year ago, fiscal year (“FY”) 2009 revenues were estimated to be \$13.04 billion, but are now estimated to be \$11.68 billion, a decrease of approximately 10 percent.

**Qualifications-Based Selection**

New section 113 requires Qualifications Based Selection (“QBS”) to be used to select planning, architectural and engineering contracts for any airside project funded by Passenger Facility Charges (“PFC”). QBS is an open, competitive procurement process where firms compete on the basis of qualifications, past experience, and the specific expertise they can bring to the project. QBS is currently applicable to planning, architectural, and engineering contracts that utilize AIP funding. Many airports use a mixture of PFC and AIP funds for airside projects.

### **Solid Waste Recycling Plans**

New section 150 requires that airport master plans address the feasibility of solid waste recycling. The Secretary of Transportation may approve a grant for an airport project only if he is satisfied that the airport has a master plan that addresses the feasibility of solid waste recycling at the airport and minimizing the generation of solid waste at the airport. This provision also clarifies that solid waste recycling plans at airports are AIP-eligible by broadening the definition of airport planning.

### **Personal Net Worth Test for Disadvantage Business Enterprise Programs**

New section 137 adjusts the personal net worth (“PNW”) cap for the Disadvantaged Business Enterprise (“DBE”) program as it relates to airport construction projects and airport concessions. To be certified as a DBE (for airport contracting) or an airport concession DBE (“ACDBE”) an individual business owner must be economically disadvantaged. Currently, to be considered economically disadvantaged, a business owner must, among other requirements, have a PNW that does not exceed \$750,000, excluding the equity in the individual’s primary residence and the value of their ownership interest in the firm seeking certification. Individuals seeking an ACDBE certification may exclude other assets that the individual can document, which are necessary to obtain financing or a franchise agreement for the initiation or expansion of his or her ACDBE firm (or have in fact been encumbered to support existing financing for the individual’s ACDBE business), up to a maximum of \$3 million. This provision would adjust the personal net worth cap for inflation for both programs, making an initial adjustment to correct for the impact of inflation since the cap was originally imposed by the Small Business Administration in 1989, and then making annual adjustments thereafter.

### **Airport Security Program**

Revises section 144 of H.R. 915. The manager’s amendment amends 49 U.S.C. 47137 to allow FAA more flexibility to award contracts, cooperative or other agreements in addition to grants, to a consortium composed of public and private persons including an airport sponsor. The provision also reiterates the DOT’s and other agencies’ obligation to cooperate and provide technical expertise as needed to administer the program, while the DOT retains overall program oversight and funding responsibility. The provision specifies that the award designee be a nonprofit consortium with at least ten years of demonstrated experience in testing and evaluating anti-terrorist technologies at airports. The annual authorization for this program is increased from \$5 million to \$8.5 million. This provision was originally included in Title 49 by AIR 21 (P.L. 106-181) and amended by Vision 100 (P.L. 108-176).

### **Airport Master Plans**

New section 151 requires the Secretary of Transportation (“Secretary”) to encourage airports to consider customer convenience, airport ground access, and access to airport facilities in airport master plans.

### **Integrated Next Generation Air Transportation Implementation Plan**

Revises section 202, which requires the FAA's Joint Program Development Office ("JPDO") to develop an Integrated Work Plan that will outline the activities required by partner agencies to achieve Next Generation Air Transportation System ("NextGen"). The manager's amendment requires the JPDO to include "a description of potentially significant operational or workforce changes" resulting from NextGen as part of the Integrated Work Plan.

### **DOT IG Review of Operational and Approach Procedures by a Third Party**

Revises section 208, which requires the Department of Transportation Inspector General ("DOT IG") to assess the FAA's reliance on third parties (as opposed to FAA Aviation Safety System technicians) for development of new operational and approach procedures and determine the FAA's ability to provide oversight. The manager's amendment clarifies that the DOT IG is to examine third party developed "public use" (developed by FAA for use by all users) procedures in addition to special use (customized proprietary procedures for the use of one user or shared among several users) procedures. In addition, the manager's amendment requires the DOT IG to assess whether sufficient mechanisms and staffing are in place to provide safety oversight functions that may include: "quality assurance processes, flight checks, integration of procedures into the NAS and operational assessment of procedures developed by third parties."

### **Flight Attendant Fatigue Study**

Revises section 306(e) regarding the flight attendant fatigue study to clarify the scope of the study.

### **Improved Voluntary Disclosure Reporting ("VDRP") System**

New section 336 requires the FAA to modify the VDRP system to require inspectors to verify that air carriers have implemented comprehensive solutions to correct underlying causes of voluntarily disclosed violations, and confirm, before approving a final report of a violation, that the violation or another violation occurring under the same circumstances has not been previously discovered by an inspector or self disclosed by an air carrier. This section also requires the Comptroller General to study the effectiveness of the VDRP program.

### **Airport Plans for International Flights**

This provision revises section 406, which requires airports to create an emergency plan to assist in deplanement of passengers following excessive delays. The manager's amendment adds an additional requirement that an airport used by an air carrier or foreign air carrier for flights in foreign air transportation provide for use of the airport's terminal, to the maximum extent practicable, for the processing of passengers arriving at the airport on such a flight in the case of an excessive tarmac delay.

### **Passenger Rights Enhancement**

Revises section 406 to require air carriers to include on internet websites and electronic tickets or boarding passes the hotline number established by section 42303, and the email, phone number and address for the Department of Transportation's ("DOT") Aviation Consumer Protection Division and the air carrier.

### **Use of Insecticides in Passenger Aircraft**

Revises section 406 to require the Secretary under subsection (a) to establish and make available to the public a list of countries that require an air carrier to treat aircraft passenger cabins with insecticides prior to the flight or to apply an aerosol insecticide when the cabin is occupied with passengers. Subsection (b) requires an air carrier, foreign air carrier, or ticket agent selling in the United States, air transportation for a flight to a country listed on the website created under subsection (a) to disclose, on its own website or through other means, that the destination country may require the air carrier or foreign air carrier to treat aircraft passenger cabins with insecticides prior to the flight or to apply an aerosol insecticide when the cabin is occupied with passengers, and refer purchasers to the website specified in subsection (a) for additional information.

### **Advisory Committee for Aviation Consumer Protection Extension**

Revises section 419, which requires the Secretary to establish an advisory committee for aviation consumer protection. The manager's amendment requires the Advisory Committee to report annually on its recommendations. Current law only requires a report in each of the first two calendar years of establishment of the Advisory Committee.

### **Compensation for Delayed Baggage**

New section 421 directs the Comptroller General to study delays in the delivery of checked baggage to air carrier passengers and making recommendations for establishing minimum standards to compensate a passenger in the case of unreasonable delays, taking into consideration that many carriers are charging additional fees for checked baggage. The report must be submitted within 180 days of the date of enactment.

### **Antitrust Exemptions**

New section 424 requires the Comptroller General to conduct a study of the legal requirements and policies followed by the DOT in deciding whether to approve international alliances and grant exemptions from the antitrust law in connection with alliances. Details the issues that the Comptroller General should examine in the study including whether granting exemptions in connection with international alliances has resulted in: public benefits, reduced competition, increased prices in markets, or other adverse effects. The report is due one year after the date of enactment. This section sunsets existing grants of antitrust immunity related to international alliances on or before the last day of the three-year period beginning on the date of enactment unless the exemption is renewed by the Secretary. The Secretary may not renew an exemption before the date on which the Secretary issues a written determination under subsection (d); any such renewal will be based on the policies in effect at that time.

### **Airport Noise Compatibility Planning Study, Port Authority of New York and New Jersey**

Revises section 513 to add Newark Liberty Airport to the Sense of the House of Representatives that the Port Authority of New York and New Jersey should undertake an airport noise compatibility planning study for LaGuardia and JFK Airports.

### **GAO Report on Record of Decision**

New section 514 requires the Comptroller General to conduct a study to determine whether the FAA and the Massachusetts Port Authority are complying with the requirements of the FAA's record of decision dated August 2, 2002, involving the construction of runway 14/32 at Logan International Airport.

### **FAA Technical Training and Staffing Study**

Revises section 603 to ensure that the National Academy of Sciences consults with the exclusive bargaining representative of the FAA systems specialist employees when conducting the study.

### **Designee Program**

Revises section 604 to require the Comptroller General to also provide an assessment of the FAA's organizational delegation/designee programs and determine whether the FAA has sufficient monitoring and surveillance programs in place to properly oversee them.

### **Safety Critical Staffing**

Revises section 606 to broaden the provision to apply to the FAA's Aircraft Certification Service, as well as the FAA's Flight Standards Service. The amendment also specifies the funding levels authorized in subsection (b) for staffing cost increases, and to allow for the same level of staffing over FYs 2010-2012. Also, "safety critical positions" are defined to include aviation safety inspectors, safety technical specialists, and operations support, manufacturing safety inspectors, and pilots.

### **Consolidation and Realignment of FAA Facilities**

Revises section 807 to modify the membership of the working group to include only the Administrator of the FAA and 2 representatives from: air carriers; general aviation community; labor; and the airport community.

### **Helicopter Operations over Long Island, New York**

Revises section 818 to include Staten Island, New York, in the study of helicopter noise.

### **Impact of Wind Turbines on Radar Signals**

Revises section 823 to include the Department of Agriculture in the list of agencies to consult, and to direct the Administrator to consider the impact of the operation of wind turbines,

individually and in collections, on radar signals and evaluate the feasibility of providing quantifiable measures of numbers of turbines and distance from radars that are acceptable. The manager's amendment also requires that a final report be sent to the House Agriculture Committee and the Senate Committee on Agriculture, Nutrition and Forestry as well as the other committees listed in section 823.

### **Wind Turbine Lighting**

New section 824 directs the Administrator to study: the effect of wind turbine lighting on residential areas; safety issues of alternative lighting strategies, technologies, or regulations; potential energy savings; feasibility of implementing alternative lighting strategies or technologies; and any other wind turbine lighting issues. The FAA is responsible for evaluating the effect structures over 200 feet have on the National Airspace System. In the past, considerable research was done to determine the minimum marking and lighting options that ensured an acceptable level of safety in air navigation. In recent years, new technologies and environmental considerations have changed, supporting the need for a new study to evaluate marking and lighting systems. The report is due to Congress within 180 days of the date of enactment.

### **Limiting Access to Flight Decks of All Cargo Aircraft**

New section 825 requires the FAA, within 180 days of the date of enactment, to identify a physical means, or a combination of physical and procedural means, of limiting access to the flight decks of all-cargo aircraft to only authorized flight crewmembers. The final report must be submitted to Congress within one year of the date of enactment. Many all-cargo aircraft do not have a fortified cockpit door or other barrier that limits access to the flight deck, and have limited ground security procedures.

### **Technical Corrections**

Makes several minor technical corrections.